

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DANNY DAVIS,

Plaintiff,

v.

CORRECTIONAL MEDICAL
SERVICES, INC., *et al.*,

Defendants.

Case No. 1:04-CV-688

Hon. Richard Alan Enslen

ORDER

Defendants N.P. Paula Myers and Correctional Medical Services, Inc. have recently appealed the April 25, 2005 Order¹ of United States Magistrate Judge Ellen S. Carmody, which Order required Defendants to provide Plaintiff Danny Davis with *gratis* copies of his medical records due to his indigent status. The Order in question is a non-dispositive pretrial order which is reviewed to determine whether it is “clearly erroneous or contrary to law.” *See* 28 U.S.C. § 636(b)(1)(A).

Upon review of the instant matter, the Court finds that the Order should be affirmed as not clearly erroneous or contrary to law. Defendants protest that they do not owe a constitutional duty to provide *gratis* discovery materials, particularly when the materials may be obtained by Plaintiff from other sources.² *See Johnson v. Hubbard*, 698 F.2d 286, 289 (6th Cir. 1983). This is true, but

¹The title of Defendants’ Objection (appeal) refers to an Order of November 10, 2004. The Court reads the title as the product of clerical error since the appeal clearly references the April 25, 2005 Order.

²Defendants also protest the Order was made without their comment because Plaintiff did not serve their counsel as to the underlying motion. The Court does urge Plaintiff to serve Defendants’ counsel, as required by Federal Rule of Civil Procedure 5. However, the Court also urges Defendants’ counsel to make good use of the ECF system by regularly reviewing the docket to avoid future disagreements of this type.

irrelevant. The interest served by the Order is the prompt and fair resolution of this law suit. Should Defendants prevail in this suit, they may seek later reimbursement for the copying costs pursuant to 28 U.S.C. § 1920 upon the taxation of costs.

THEREFORE, IT IS HEREBY ORDERED that Defendants N.P. Paula Myers and Correctional Medical Services, Inc.'s Objection (appeal) (Dkt. No. 57) is **DENIED** and the Order of April 25, 2005 is **AFFIRMED**.

DATED in Kalamazoo, MI:
May 16, 2005

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
UNITED STATES DISTRICT JUDGE